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HOUSE BILL 1285

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State of Washington                      60th Legislature                      2007 Regular Session

By Representatives Anderson, Fromhold, Priest, Quall and Haler

Read first time 01/16/2007. Referred to Committee on Education.

1            AN ACT Relating to recodifying the basic education program;  
2 amending RCW 28A.150.200, 28A.150.220, 28A.150.250, 28A.150.260,  
3 28A.150.290, 28A.150.360, and 28A.150.410; adding a new section to  
4 chapter 28A.160 RCW; adding a new chapter to Title 28A RCW; recodifying  
5 RCW 28A.150.200, 28A.150.210, 28A.150.220, 28A.150.250, 28A.150.260,  
6 28A.150.270, 28A.150.290, 28A.150.410, 28A.150.275, 28A.150.280,  
7 28A.150.350, 28A.150.360, 28A.150.370, 28A.150.420, and 28A.150.280;  
8 and repealing RCW 28A.150.100.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10            NEW SECTION.    **Sec. 1.** In 1977, the legislature adopted the  
11 Washington basic education act of 1977 to set forth an education  
12 program that complies with the requirements of Article IX, sections 1  
13 and 2, of the state Constitution. Subsequently, the courts have held  
14 that included in the state's obligation for basic education under  
15 Article IX, sections 1 and 2 of the state Constitution, is the  
16 provision of several programs in addition to the program contained in  
17 the Washington basic education act of 1977. In 1983, Thurston county  
18 superior court Judge Robert J. Doran held in *Seattle School District*  
19 *No. 1 v. State*, Thurston Co. Superior Court No. 81-2-1713-1 (1983),

1 that the program of basic education required by Article IX of the state  
2 Constitution includes certain programs in addition to the program set  
3 forth in the basic education act. Judge Doran identified these  
4 additional programs in his 1983 decision. Following Judge Doran's  
5 decision, the legislature has proceeded as though those programs held  
6 by Judge Doran to be part of the state's obligations under Article IX  
7 of the state Constitution are part of basic education. The purpose of  
8 this act is to set forth in a separate chapter for clarity and ease of  
9 reference all statutes the courts have held to be part of the program  
10 of basic education. This act does not expand, diminish, or alter the  
11 state's basic education obligations under Article IX of the state  
12 Constitution.

13 **Sec. 2.** RCW 28A.150.200 and 1990 c 33 s 104 are each amended to  
14 read as follows:

15 (~~(This 1977 amendatory act)~~) Chapter 359, Laws of 1977 ex. sess.  
16 shall be known and may be cited as "The Washington basic education act  
17 of 1977." The program evolving from the basic education act shall  
18 include (1) the goal of the school system as defined in RCW 28A.150.210  
19 (as recodified by this act), (2) those program requirements enumerated  
20 in RCW 28A.150.220 (as recodified by this act), and (3) the  
21 determination and distribution of state resources as defined in RCW  
22 28A.150.250 and 28A.150.260 (as recodified by this act).

23 The requirements of the basic education act are deemed by the  
24 legislature to comply with the requirements of Article IX, section 1 of  
25 the state Constitution, which states that "It is the paramount duty of  
26 the state to make ample provision for the education of all children  
27 residing within its borders, without distinction or preference on  
28 account of race, color, caste, or sex," and are adopted pursuant to  
29 Article IX, section 2 of the state Constitution, which states that "The  
30 legislature shall provide for a general and uniform system of public  
31 schools." This act is not intended to expand, diminish, or alter the  
32 state's basic education obligations under Article IX of the state  
33 Constitution.

34 NEW SECTION. **Sec. 3.** The definitions in this section apply  
35 throughout this chapter and RCW 28A.400.200 unless the context clearly  
36 requires otherwise.

1 (1) "Instructional hours" means those hours students are provided  
2 the opportunity to engage in educational activity planned by and under  
3 the direction of school district staff, as directed by the  
4 administration and board of directors of the district, inclusive of  
5 intermissions for class changes, recess, and teacher/parent-guardian  
6 conferences that are planned and scheduled by the district for the  
7 purpose of discussing students' educational needs or progress, and  
8 exclusive of time actually spent for meals.

9 (2) "Basic education certificated instructional staff" means all  
10 full-time equivalent certificated instructional staff in the following  
11 programs as defined for statewide school district accounting purposes:  
12 Basic education, secondary vocational education, general instructional  
13 support, and general supportive service.

14 **Sec. 4.** RCW 28A.150.220 and 1993 c 371 s 2 are each amended to  
15 read as follows:

16 (1) Satisfaction of the basic education program requirements  
17 identified in RCW 28A.150.210 (as recodified by this act) shall be  
18 considered to be implemented by the following program:

19 (a) Each school district shall make available to students enrolled  
20 in kindergarten at least a total instructional offering of four hundred  
21 fifty hours. The program shall include instruction in the essential  
22 academic learning requirements (~~((under RCW 28A.630.885))~~) and such other  
23 subjects and such activities as the school district shall determine to  
24 be appropriate for the education of the school district's students  
25 enrolled in such program;

26 (b) Each school district shall make available to students enrolled  
27 in grades one through twelve, at least a district-wide annual average  
28 total instructional hour offering of one thousand hours. The state  
29 board of education may define alternatives to classroom instructional  
30 time for students in grades nine through twelve enrolled in alternative  
31 learning experiences. The state board of education shall establish  
32 rules to determine annual average instructional hours for districts  
33 including fewer than twelve grades. The program shall include the  
34 essential academic learning requirements (~~((under RCW 28A.630.885))~~) and  
35 such other subjects and such activities as the school district shall  
36 determine to be appropriate for the education of the school district's  
37 students enrolled in such group;

1       (c) Each school district shall maintain a ratio of at least forty-  
2 six basic education certificated staff to one thousand annual average  
3 full-time equivalent students;

4       (d) If the essential academic learning requirements include a  
5 requirement of languages other than English, the requirement may be met  
6 by students receiving instruction in one or more American Indian  
7 languages.

8       (e) Each school district shall make available to all eligible and  
9 enrolled students with disabilities as defined in RCW 28A.155.020 the  
10 opportunity for an appropriate education at public expense as provided  
11 in chapter 28A.155 RCW;

12       (f) Each school district shall make available to all eligible and  
13 enrolled students in grades kindergarten through twelve transportation  
14 to and from school as provided in chapter 28A.160 RCW;

15       (g) Each school district participating in the learning assistance  
16 program, as set forth in chapter 28A.165 RCW, shall provide a program  
17 to participating students that complies with the requirements of  
18 chapter 28A.165 RCW;

19       (h) Each school district shall make available to each eligible and  
20 enrolled student transitional bilingual instruction as required by  
21 chapter 28A.180 RCW;

22       (i) Each education provider under chapter 28A.193 RCW shall provide  
23 a program of education to eligible and participating juvenile inmates  
24 as provided by chapter 28A.193 RCW.

25       (2) Nothing contained in subsection (1) of this section shall be  
26 construed to require individual students to attend school for any  
27 particular number of hours per day or to take any particular courses.

28       (3) Each school district's kindergarten through twelfth grade basic  
29 educational program shall be accessible to all students who are five  
30 years of age, as provided by RCW 28A.225.160, and less than twenty-one  
31 years of age and shall consist of a minimum of one hundred eighty  
32 school days per school year in such grades as are conducted by a school  
33 district, and one hundred eighty half-days of instruction, or  
34 equivalent, in kindergarten: PROVIDED, That (~~effective May 1, 1979,~~)  
35 a school district may schedule the last five school days of the one  
36 hundred and eighty day school year for noninstructional purposes in the  
37 case of students who are graduating from high school, including, but  
38 not limited to, the observance of graduation and early release from

1 school upon the request of a student, and all such students may be  
2 claimed as a full time equivalent student to the extent they could  
3 otherwise have been so claimed for the purposes of RCW 28A.150.250 and  
4 28A.150.260 (as recodified by this act).

5 (4) The state board of education shall adopt rules to implement and  
6 ensure compliance with the program requirements imposed by this  
7 section, RCW 28A.150.250 and 28A.150.260 (as recodified by this act),  
8 and such related supplemental program approval requirements as the  
9 state board may establish.

10 **Sec. 5.** RCW 28A.150.250 and 1990 c 33 s 107 are each amended to  
11 read as follows:

12 From those funds made available by the legislature for the current  
13 use of the common schools, the superintendent of public instruction  
14 shall distribute annually as provided in RCW 28A.510.250 to each school  
15 district of the state operating a program approved by the state board  
16 of education an amount which, when combined with an appropriate portion  
17 of such locally available revenues, other than receipts from federal  
18 forest revenues distributed to school districts pursuant to RCW  
19 28A.520.010 and 28A.520.020, as the superintendent of public  
20 instruction may deem appropriate for consideration in computing state  
21 equalization support, excluding excess property tax levies, will  
22 constitute a basic education allocation in dollars for each annual  
23 average full time equivalent student enrolled, based upon one full  
24 school year of one hundred eighty days, except that for kindergartens  
25 one full school year shall be one hundred eighty half days of  
26 instruction, or the equivalent as provided in RCW 28A.150.220 (as  
27 recodified by this act).

28 Basic education shall be considered to be fully funded by those  
29 amounts of dollars appropriated by the legislature pursuant to RCW  
30 28A.150.250 and 28A.150.260 (as recodified by this act) to fund those  
31 program requirements identified in RCW 28A.150.220 (as recodified by  
32 this act) in accordance with the formula and ratios provided in RCW  
33 28A.150.260 (as recodified by this act) and those amounts of dollars  
34 appropriated by the legislature to fund the salary requirements of RCW  
35 ~~((28A.150.100))~~ 28A.150.220 (as recodified by this act) and  
36 28A.150.410.

1        Operation of a program approved by the state board of education,  
2 for the purposes of this section, shall include a finding that the  
3 ratio of students per classroom teacher in grades kindergarten through  
4 three is not greater than the ratio of students per classroom teacher  
5 in grades four and above for such district: PROVIDED, That for the  
6 purposes of this section, "classroom teacher" shall be defined as an  
7 instructional employee possessing at least a provisional certificate,  
8 but not necessarily employed as a certificated employee, whose primary  
9 duty is the daily educational instruction of students: PROVIDED  
10 FURTHER, That the state board of education shall adopt rules and  
11 regulations to insure compliance with the student/teacher ratio  
12 provisions of this section, and such rules and regulations shall allow  
13 for exemptions for those special programs and/or school districts which  
14 may be deemed unable to practicably meet the student/teacher ratio  
15 requirements of this section by virtue of a small number of students.

16        If a school district's basic education program fails to meet the  
17 basic education requirements enumerated in RCW 28A.150.250,  
18 28A.150.260, and 28A.150.220 (as recodified by this act), the state  
19 board of education shall require the superintendent of public  
20 instruction to withhold state funds in whole or in part for the basic  
21 education allocation until program compliance is assured: PROVIDED,  
22 That the state board of education may waive this requirement in the  
23 event of substantial lack of classroom space.

24        **Sec. 6.** RCW 28A.150.260 and 2006 c 263 s 322 are each amended to  
25 read as follows:

26        The basic education allocation for each annual average full time  
27 equivalent student shall be determined in accordance with the following  
28 procedures:

29        (1) The governor shall and the superintendent of public instruction  
30 may recommend to the legislature a formula based on a ratio of students  
31 to staff for the distribution of a basic education allocation for each  
32 annual average full time equivalent student enrolled in a common  
33 school. The distribution formula shall have the primary objective of  
34 equalizing educational opportunities and shall provide appropriate  
35 recognition of the following costs among the various districts within  
36 the state:

37        (a) Certificated instructional staff and their related costs;

1 (b) Certificated administrative staff and their related costs;

2 (c) Classified staff and their related costs;

3 (d) Nonsalary costs;

4 (e) Extraordinary costs, including school facilities, of remote and  
5 necessary schools as judged by the superintendent of public  
6 instruction, with recommendations from the school facilities citizen  
7 advisory panel under RCW 28A.525.025, and small high schools, including  
8 costs of additional certificated and classified staff; and

9 (f) The attendance of students pursuant to RCW 28A.335.160 and  
10 28A.225.250 who do not reside within the servicing school district.

11 (2)(a) This formula for distribution of basic education funds shall  
12 be reviewed biennially by the superintendent and governor. The  
13 recommended formula shall be subject to approval, amendment or  
14 rejection by the legislature. The formula shall be for allocation  
15 purposes only. While the legislature intends that the allocations for  
16 additional instructional staff be used to increase the ratio of such  
17 staff to students, nothing in this section shall require districts to  
18 reduce the number of administrative staff below existing levels.

19 (b) The formula adopted by the legislature shall reflect the  
20 following ratios at a minimum: (i) Forty-nine certificated  
21 instructional staff to one thousand annual average full time equivalent  
22 students enrolled in grades kindergarten through three; (ii) forty-six  
23 certificated instructional staff to one thousand annual average full  
24 time equivalent students in grades four through twelve; (iii) four  
25 certificated administrative staff to one thousand annual average full  
26 time equivalent students in grades kindergarten through twelve; and  
27 (iv) sixteen and sixty-seven one-hundredths classified personnel to one  
28 thousand annual average full time equivalent students enrolled in  
29 grades kindergarten through twelve.

30 (c) In the event the legislature rejects the distribution formula  
31 recommended by the governor, without adopting a new distribution  
32 formula, the distribution formula for the previous school year shall  
33 remain in effect: PROVIDED, That the distribution formula developed  
34 pursuant to this section shall be for state apportionment and  
35 equalization purposes only and shall not be construed as mandating  
36 specific operational functions of local school districts other than  
37 those program requirements identified in RCW 28A.150.220 (~~and~~  
38 ~~28A.150.100~~) (as recodified by this act). The enrollment of any

1 district shall be the annual average number of full time equivalent  
2 students and part time students as provided in RCW 28A.150.350 (as  
3 recodified by this act), enrolled on the first school day of each month  
4 and shall exclude full time equivalent students with disabilities  
5 recognized for the purposes of allocation of state funds for programs  
6 under RCW 28A.155.010 through 28A.155.100. The definition of full time  
7 equivalent student shall be determined by rules of the superintendent  
8 of public instruction: PROVIDED, That the definition shall be included  
9 as part of the superintendent's biennial budget request: PROVIDED,  
10 FURTHER, That any revision of the present definition shall not take  
11 effect until approved by the house appropriations committee and the  
12 senate ways and means committee: PROVIDED, FURTHER, That the office of  
13 financial management shall make a monthly review of the  
14 superintendent's reported full time equivalent students in the common  
15 schools in conjunction with RCW 43.62.050.

16 (3)(a) Certificated instructional staff shall include those persons  
17 employed by a school district who are nonsupervisory employees within  
18 the meaning of RCW 41.59.020(8): PROVIDED, That in exceptional cases,  
19 people of unusual competence but without certification may teach  
20 students so long as a certificated person exercises general  
21 supervision: PROVIDED, FURTHER, That the hiring of such classified  
22 people shall not occur during a labor dispute and such classified  
23 people shall not be hired to replace certificated employees during a  
24 labor dispute.

25 (b) Certificated administrative staff shall include all those  
26 persons who are chief executive officers, chief administrative  
27 officers, confidential employees, supervisors, principals, or assistant  
28 principals within the meaning of RCW 41.59.020(4).

29 **Sec. 7.** RCW 28A.150.290 and 1992 c 141 s 504 are each amended to  
30 read as follows:

31 (1) The superintendent of public instruction shall have the power  
32 and duty to make such rules (~~(and regulations)~~) as are necessary for  
33 the proper administration of this chapter, chapter 28A.150 RCW, and RCW  
34 28A.160.150 through (~~(28A.160.220)~~) 28A.160.210, 28A.300.035,  
35 28A.300.170, and 28A.500.010 not inconsistent with the provisions  
36 thereof, and in addition to require such reports as may be necessary to

1 carry out his or her duties under this chapter, chapter 28A.150 RCW,  
2 and RCW 28A.160.150 through ~~((28A.160.220))~~ 28A.160.210, 28A.300.035,  
3 28A.300.170, and 28A.500.010.

4 (2) The superintendent of public instruction shall have the  
5 authority to make rules ~~((and regulations which))~~ that establish the  
6 terms and conditions for allowing school districts to receive state  
7 basic education moneys as provided in RCW 28A.150.250 (as recodified by  
8 this act) when said districts are unable to fulfill for one or more  
9 schools as officially scheduled the requirement of a full school year  
10 of one hundred eighty days or the annual average total instructional  
11 hour offering imposed by RCW 28A.150.220 and 28A.150.260 (as recodified  
12 by this act) due to one or more of the following conditions:

13 (a) An unforeseen natural event, including, but not necessarily  
14 limited to, a fire, flood, explosion, storm, earthquake, epidemic, or  
15 volcanic eruption that has the direct or indirect effect of rendering  
16 one or more school district facilities unsafe, unhealthy, inaccessible,  
17 or ~~((inoperable))~~ inoperative; and

18 (b) An unforeseen mechanical failure or an unforeseen action or  
19 inaction by one or more persons, including negligence and threats, that  
20 (i) is beyond the control of both a school district board of directors  
21 and its employees and (ii) has the direct or indirect effect of  
22 rendering one or more school district facilities unsafe, unhealthy,  
23 inaccessible, or ~~((inoperable))~~ inoperative. Such actions, inactions  
24 or mechanical failures may include, but are not necessarily limited to,  
25 arson, vandalism, riots, insurrections, bomb threats, bombings, delays  
26 in the scheduled completion of construction projects, and the  
27 discontinuance or disruption of utilities such as heating, lighting and  
28 water: PROVIDED, That an unforeseen action or inaction shall not  
29 include any labor dispute between a school district board of directors  
30 and any employee of the school district.

31 A condition is foreseeable for the purposes of this subsection to  
32 the extent a reasonably prudent person would have anticipated prior to  
33 August first of the preceding school year that the condition probably  
34 would occur during the ensuing school year because of the occurrence of  
35 an event or a circumstance which existed during such preceding school  
36 year or a prior school year. A board of directors of a school district  
37 is deemed for the purposes of this subsection to have knowledge of

1 events and circumstances which are a matter of common knowledge within  
2 the school district and of those events and circumstances which can be  
3 discovered upon prudent inquiry or inspection.

4 (3) The superintendent of public instruction shall make every  
5 effort to reduce the amount of paperwork required in administration of  
6 this chapter, chapter 28A.150 RCW, and RCW 28A.160.150 through  
7 (~~28A.160.220~~) 28A.160.210, 28A.300.035, 28A.300.170, and 28A.500.010;  
8 to simplify the application, monitoring and evaluation processes used;  
9 to eliminate all duplicative requests for information from local school  
10 districts; and to make every effort to integrate and standardize  
11 information requests for other state education acts and federal aid to  
12 education acts administered by the superintendent of public instruction  
13 so as to reduce paperwork requirements and duplicative information  
14 requests.

15 **Sec. 8.** RCW 28A.150.360 and 1995 c 335 s 101 are each amended to  
16 read as follows:

17 In the event of an unforeseen emergency, in the nature of either an  
18 unavoidable cost to a district or unexpected variation in anticipated  
19 revenues to a district, the state superintendent is authorized, for not  
20 to exceed two years, to make such an adjustment in the allocation of  
21 funds as is consistent with the intent of this chapter, chapter 28A.150  
22 RCW, RCW 28A.160.150 through 28A.160.210, 28A.300.170, and 28A.500.010  
23 in providing an equal educational opportunity for the children of such  
24 district or districts.

25 **Sec. 9.** RCW 28A.150.410 and 2002 c 353 s 1 are each amended to  
26 read as follows:

27 (1) The legislature shall establish for each school year in the  
28 appropriations act a statewide salary allocation schedule, for  
29 allocation purposes only, to be used to distribute funds for basic  
30 education certificated instructional staff salaries under RCW  
31 28A.150.260 (as recodified by this act).

32 (2) Salary allocations for state-funded basic education  
33 certificated instructional staff shall be calculated by the  
34 superintendent of public instruction by determining the district's  
35 average salary for certificated instructional staff, using the

1 statewide salary allocation schedule and related documents, conditions,  
2 and limitations established by the omnibus appropriations act.

3 (3) (~~Beginning January 1, 1992,~~) No more than ninety college  
4 quarter-hour credits received by any employee after the baccalaureate  
5 degree may be used to determine compensation allocations under the  
6 state salary allocation schedule and LEAP documents referenced in the  
7 omnibus appropriations act, or any replacement schedules and documents,  
8 unless:

- 9 (a) The employee has a masters degree; or
- 10 (b) The credits were used in generating state salary allocations
- 11 before January 1, 1992.

12 NEW SECTION. **Sec. 10.** The following sections are each recodified  
13 in the new chapter in Title 28A RCW created in section 13 of this act.

- 14 RCW 28A.150.200
- 15 RCW 28A.150.210
- 16 RCW 28A.150.220
- 17 RCW 28A.150.250
- 18 RCW 28A.150.260
- 19 RCW 28A.150.270
- 20 RCW 28A.150.290
- 21 RCW 28A.150.410
- 22 RCW 28A.150.275
- 23 RCW 28A.150.280
- 24 RCW 28A.150.350
- 25 RCW 28A.150.360
- 26 RCW 28A.150.370
- 27 RCW 28A.150.420

28 NEW SECTION. **Sec. 11.** RCW 28A.150.280 is recodified as a new  
29 section in chapter 28A.160 RCW.

30 NEW SECTION. **Sec. 12.** RCW 28A.150.100 (Basic education  
31 certificated instructional staff--Definition--Ratio to students) and  
32 1990 c 33 s 103 & 1987 1st ex.s. c 2 s 203 are each repealed.

1        NEW SECTION.   **Sec. 13.**   Sections 1 and 3 of this act constitute a  
2   new chapter in Title 28A RCW.

--- END ---